



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

HMO/152566

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 02, 2013, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on November 07, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether there is a problem presented concerning which the Division of Hearings and Appeals has authority to act.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Luci Miller, Nurse Consultant  
Division of Health Care Access And Accountability  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. This appeal was filed by Petitioner seeking an order from the Division of Hearings and Appeals directing that he be permitted to continue care with Dr. Kathleen Baugrud.
3. Petitioner is enrolled in the BadgerCare+ Core Plan. Per State records that eligibility continues into at least early 2014. He is assigned to an HMO - United HealthCare.

4. During the hearing the undersigned checked the online site for United HealthCare and Dr. Baugrud was in its network. I double checked that just before this decision and United HealthCare records indicate that Dr. Baugrud is still in their network. See <http://www.uhccommunityplan.com/wi/medicaid/medicaid-ssi/find-a-provider.html>
5. Post hearing the ForwardHealth representative in attendance at the hearing submitted additional information indicating that Dr. Baugrud had not seen Petitioner for some period of time and did not, therefore, consider him to be her patient. Petitioner, on the other hand submitted a letter from Dr. Baugrud indicating that she is still willing to have Petitioner as her patient.

### **DISCUSSION**

Division of Hearings and Appeals authority concerning Medicaid matters is limited to denials of applications, discontinuance of benefits and denial of services. See *Wis. Stats. §49.45(5)(a)*. Here none of this has happened. Petitioner is BadgerCare+ Core eligible, he is assigned to United HealthCare and Dr. Baugrud is in the United HealthCare network of providers. If she is willing to continue Petitioner as her patient, he is eligible to see her as his physician. If she is not taking him as a patient, the Division of Hearings and Appeals does not have authority to direct that she do so.

### **CONCLUSIONS OF LAW**

That there is no issue presented over which the Division of Hearings and Appeals has authority to make a decision.

**THEREFORE, it is**

### **ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

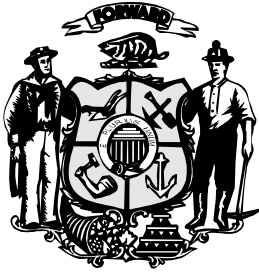
Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 23rd day of December, 2013

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 23, 2013.

Division of Health Care Access And Accountability